IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.462 OF 2006

Mumbai Municipal Corporation .. Petitioner.
Vs.
Rajinder Singh & Anr. .. Respondents.

WITH

CRIMINAL WRIT PETITION NO.1413 OF 2006

Mumbai Municipal Corporation .. Petitioner.
Vs.
Baliram R.Yadav & Anr. .. Respondents.

WITH

CRIMINAL WRIT PETITION NO.1414 OF 2006

Mumbai Municipal Corporation .. Petitioner.
Vs.
Sunil Panchal & Anr. .. Respondents.

WITH

CRIMINAL WRIT PETITION NO.1415 OF 2006

Mumbai Municipal Corporation .. Petitioner.
Vs.
Ramesh Jain & Anr. .. Respondents.

Mrs.Teja Katdare for the Corporation.
Mr.R.Y.Mirza A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 10TH AUGUST, 2006

P.C.:

. Heard learned counsel for the petitioner-corporation and learned A.P.P. for the State.

2. All these petitions challenge similar orders passed by the Magistrate dismissing the complaints for default filed by the Mumbai Municipal Corporation through Shri V.P.Manjarekar, Legal Assistant. The order in all the petitions is identical which reads thus:

> . "The case is pretty old, complainant failed to take steps. Hence dismissed for default & closed".

. The aforesaid order was challenged by the petitioners in the revisions and the revisions were also dismissed as not maintainable. I perused the order passed by the Sessions Court. It appears that since no steps were taken by the Corporation for the progress of the case, that forced the learned Magistrate to pass the aforesaid orders. It was submitted by the learned counsel for the Corporation that instead of dismissing the matters for default the learned Magistrate ought to have issued bailable or non-bailable warrant to secure presence of the accused.

3. This court vide order dated 6.3.2006, in view of serious grievance made by the Corporation against the learned Magistrate who passed the impugned orders not only in the matters before this Court but in several such matters, the Chief Metropolitan

Magistrate was directed to call for the report from the concerned Magistrate and to place it on record. Accordingly, the Chief Metropolitan Magistrate has placed the explanation of the concerned Magistrate with his comments on record. The learned Magistrate has specifically stated in his explanation that the complainant was not present on the date when the impugned order was passed by them. I do not find any reason to doubt the statement made by the learned Magistrate in the report. Moreover, it is also reflected in the order itself that the complainant was not present on the date when the impugned orders were passed inasmuch as the complaints were dismissed for default. I would not like to enter into a controversy raised by the petitioners in the instant petitions since it is apparent that the complainant-Corporation was also at fault for stretching the matters for five years. Be that as it may, the Magistrates while dismissing the complaints filed by a public body like Bombay Municipal Corporation which is one of the biggest litigants before them, must record reasons reflecting therein the circumstances which force them to pass such orders. They are not expected to pass cryptic orders, as is done in the instant cases. The Corporation also should demonstrate their concern and should be very particular in follow up of the cases of such nature where the maximum punishment provided in

the statute is only fine. Considering the overall facts and circumstances I am satisfied that the following order shall meet the ends of justice:

. The orders impugned in the instant petitions at Exhibit-B are quashed and set aside. All the complaints stand restored to file. The learned Magistrate shall deal with the complaints afresh in accordance with law as expeditiously as possible and in any case within six months from the date of receipt of this order. The Corporation is also directed to co-operate for disposal of these cases within timeframe and shall not seek adjournment on any flimsy ground. The Corporation should see that on every date of hearing of such cases either their advocate or their legal assistant remains present. If the presence of their advocate or legal assistant becomes indispensable on any of the dates of hearing and they do not remain present, it is open for the Magistrate to pass appropriate orders in accordance with law.

. With these observations the petitions are disposed of.

(D.B.Bhosale, J.)